meant control "would add some desirable certainty as to the application of the legislation."

Questioned by Rep. Brock Adams (D Wash.) about percentages used to presume control in acts administered by the SEC, Philip A. Loomis Jr., SEC general counsel who accompanied Owens, said the 10 per cent figure set by various federal statutes had worked well.

Air Transport Assn. of America (ATA) president S.G. Tipton said the ATA agreed with the CAB that legislation such as HR 8322 and 8323 should be deferred until Congress had considered the role of conglomerates in the national economy. He endorsed HR 8261 but suggested changes similar to those the ATA proposed for S 1373.

Richard W. McLaren, Assistant Attorney General, Antitrust Division, Department of Justice, said the Department opposed HR 8322 because it would "tighten the screws too tight" by flatly prohibiting "control of air carriers by a firm not closely related to air transportation, even where no adverse effects of such control could be shown."

McLaren said the general objectives of HR 8261 and HR 8323 were desirable and proposed alternative amendments—identical to the amendments he suggested for S 1373—to guard against extension of antitrust immunity to conglomerates that acquired airlines with CAB approval. *(See above.)*

Paul W. Cherington, Assistant Secretary of Transportation for Policy and International Affairs, said both HR 8322 and HR 8323 were "unduly restrictive and go further in regulating acquisitions than warranted by existing or foreseeable circumstances."

Cherington said the Department of Transportation endorsed HR 8261 if the point of presumed control were raised to ownership of 10 per cent or more of a company's stock. He supported the CAB recommendation that certain acquisitions be exempted from the bill's provisions, and suggested that CAB review be limited to the certified air carriers.

RELATED DEVELOPMENT—Resorts International Inc. March 31 said it would acquire a maximum of 4.8 per cent of Pan American World Airways Stock, not 9.7 per cent as planned earlier. The reduced acquisition would fall just below the 5 per cent figure for presumption of control in S 1373 and HR 8261.

SAFEGUARD ABM SYSTEM

COMMITTEE—Senate Foreign Relations, Subcommittee on International Organization and Disarmament Affairs; Albert Gore (D Tenn.), chairman.

CONTINUED HEARINGS—March 26, 28 on the anti-ballistic missile system. *(For previous hearings, see Weekly Report p. 374, 433.)* Testimony:

March 26—Deputy Secretary of Defense David Packard gave the same prepared testimony he had presented March 20 before the Senate Armed Services Committee to defend the Nixon Administration's Safeguard antiballistic missile (ABM) defense. Members of the Foreign Relations Subcommittee, all of whom opposed the ABM program, presented counterarguments. *(For previous Packard testimony, see Weekly Report p. 433.)*

Packard said the Administration had shifted the orientation of the ABM system from defense of U.S. cities against a Chinese attack, as proposed by the Johnson Administration, to defense of U.S. missile sites in order to protect the U.S. retaliatory deterrent. Packard said the change had been required by an anticipated buildup in Soviet missile capability that could threaten the U.S. retaliatory ability in the 1970s.

He said the Soviet Union had reached parity with the United States in total missile forces. He added the Soviet Union was also developing new weapons, such as Polaris-type missile submarines, large SS-9 missiles and orbiting missiles (FOBS), that could enable it to knock out the U.S. retaliatory force.

The modified ABM system, Packard said, would allow protection of enough U.S. missiles and bombers to assure a U.S. second strike in case of attack. He added that the phased deployment of the Safeguard, the first phase of which would not be completed until 1973, would allow testing of the system, continued evaluation of the threat and negotiation on an arms agreement with the Soviet Union. The full system, deployed if the threat seemed to warrant it, would also give light protection to cities, warn against sea-based missile launches and protect Washington, D.C., he said.

Subcommittee Chairman Gore, however, challenged Packard's argument with his own charts. He said that both the Soviet Union and the United States possessed enough missiles to retaliate against a first strike by the other. "After another cycle of action and reaction, there may well be no possibility of negotiating an (arms) agreement that is capable of verification," Gore said. "In my view, our retaliatory capacity is clearly suffcient to permit us to seize this opportunity (to negotiate) without imperiling the security of this nation," he added.

J.W. Fulbright (D Ark.) also pressed Packard on the issue of arms control negotiations. He said he was surprised at the U.S. "reluctance" to investigate the Soviet willingness to discuss the issue. Packard replied that it was not his place to decide when arms control talks were to be undertaken.

Subcommittee members also contended that the best way to protect the U.S. missiles and deter a Soviet first strike would be to make clear that the U.S. missiles would be fired in retaliation before attacking missiles could reach them. Packard said that such "an automatic and inexorable" nuclear response had "all of the terrifying defects of a doomsday machine." He said the President should have the additional time and protection afforded by the ABM "to check the facts rather than shoot from the hip."

The Subcommittee obtained assurance from Packard that the Nixon Administration would not proceed with the Safeguard until it had received Congressional approval. He said the Administration did not regard the Congressional approval granted in 1968 for the Sentinel ABM as binding on the Safeguard system.

Packard, in response to questions from Subcommittee members, said that the Soviet SS-9 25-megaton missile depicted previously as a first-strike offensive threat, would not have that offensive capability until equipped with multiple warheads. He also said the 25-megaton payload attributed to the SS-9 by the Pentagon was not based on "hard" intelligence, but rather on presumption based on the thrust capacity of the missile. (In previous years SS-9 had been characterized by the Pentagon as a defensive weapon in the five-megaton range.) He also said the Soviet

The Federal Reserve Board, which had primary responsibility for state banks that were members of the Federal Reserve System, was very strict in its decisions on bank diversification. The Office of the Comptroller of the Currency, which regulates national banks, was more liberal. So was the Federal Deposit Insurance Corp., which had primary regulatory responsibility for insured state banks not members of the Federal Reserve.

In an attempt to get around the more stringent rules of the Fed, some major banks gave up their state charters and became national banks to get under the wing of the Comptroller. Some of these and other banks began to reorganize into single-bank holding companies to escape regulation by the Fed—and any other bank regulatory agency, for that matter. (All, of course, were covered by the antitrust laws, which have nothing to say about mixing banking and commerce.)

A complicating factor has been the recent growth of conglomerate corporations (combines of companies in unconnected enterprises), although by March 1969 the conglomerates controlled one-bank holding companies with deposits of less than three percent of the nation's total. There is, however, a potential for substantial expansion by the conglomerates.

Latest Figures. Meanwhile, the number of single-bank holding companies had grown dramatically. According to the House Banking and Currency Committee, the number of one-bank (also known as "unregistered") holding companies grew from 117 in 1955 to 550 in 1965 and jumped to 691 by the end of 1968. Sen. William Proxmire (D Wis.) has said that as of Feb. 13, 1969, the number of existing or planned one-bank holding companies totaled 810. These, he said, had deposits of $134.6 billion—40 percent of all commercial bank deposits. This compared with less than 13 percent of bank deposits held by the 106 registered bank holding companies.

"Clearly," said Proxmire, "the situation has changed drastically from the time Congress last considered the subject (in 1966)." He concluded, however, that there was no substantial evidence of abuses.

Current Developments

After missing several self-imposed deadlines, the Nixon Administration March 24 sent identical bills (HR 9385, S 1664) to Congress to plug the loophole which allowed the single-bank holding companies to go virtually unregulated. *(Weekly Report p. 447)*

While the Treasury Department wrote and rewrote the bill, Chairman Wright Patman of the House Banking and Currency Committee (Feb. 17) offered a bill (HR 6778) of his own. The next day Sen. Proxmire, second-ranking majority member of the Senate Banking and Currency Committee, introduced still another bill (S 1052). A related bill (S 1211) that would regulate attempts to take over banks by means of tender offers was introduced (Feb. 28) by Sen. John J. Sparkman (D Ala.), chairman of the Senate banking group. (CQ has learned the Sparkman bill might be amended to deal directly with the holding companies.)

Patman, a lifelong foe of big bankers, grew more and more impatient as the promised Administration bill was held up. He wrote to President Nixon Feb. 20, asking him to withdraw the Treasury Department and the Budget Director from participation in drafting the legislation. Treasury Secretary David M. Kennedy, Under Secretaries Charles E. Walker and Paul Volcker and Budget Director Robert P. Mayo all have banking backgrounds.

Patman's Committee was scheduled to begin hearings on his bill April 15 after the Easter recess. Indications are that the Committee will call witnesses to testify about the "predatory" activities of some banks.

Reaction. President Nixon, in a message accompanying his proposal, urged prompt action and said, "Legislation in this area is important because there has been a disturbing trend in the past year toward erosion of the traditional separation of powers between the suppliers of money—the banks—and the users of money—commerce and industry.

"Left unchecked," he added, "the trend toward the combining of banking and business could lead to the formation of a relatively small number of power centers dominating the American economy.

"This must not be permitted to happen," he warned. "It would be bad for banking, bad for business and bad for borrowers and consumers." *(For text, see Weekly Report p. 454.)*

Patman said the Treasury bill actually would allow banks even greater freedom to merge with business. "The Administration bill has crippling defects right at the nerve center of this entire legislative effort," said Patman. "I am appalled these were not corrected before the bill was sent to the Congress."

Patman objected to what he believes is unnecessary liberalization of the restrictions on what businesses banks could enter. Also, he did not like the dispersal of regulatory authority and wanted it to remain with the Fed.

Treasury Under Secretary Walker told reporters the liberalization on bank diversification would prohibit bank holding companies from engaging in the securities business.

The bill, however, left to the courts the determination of whether banks could operate a mutual fund. Some saw this as an attempt to avoid the issue. The Chase Manhattan Bank is currently appealing a court decision which blocked the Chase from forming such a fund.

Walker told reporters he believes there would be relatively few divestitures under the Administration bill, because not many of the existing one-bank holding companies had made acquisitions which would be objectionable to the regulatory agencies. He said the bill would require C.I.T. Financial Corp., a New York conglomerate, to get rid of the National Bank of North America, if C.I.T. wants to diversify into nonqualifying fields. The bank is the largest one owned by a conglomerate.

On the division of regulatory authority, Walker said he would not object if Congress set up a formal procedure to deal with disagreements among the agencies.

Lobby Activities

The American Bankers Assn., biggest of the banking organizations, is divided on the issue. Large banks anxious to expand (e.g. First National City Bank of New York which has two pending insurance acquisitions) want a liberal law. Their officers and the men who run conglomerates contend existing antitrust laws would block undue concentration of economic power.

(Text continued on p. 492)